

GILA COUNTY BOARD OF ADJUSTMENT
Gila County Supervisors Conference Room
610 E. Highway 260, Payson, AZ
Gila County Community Development Conference Room
745 N. Rose Mofford Way, Globe, AZ

April 19, 2018
9:00 A.M.

A G E N D A

REGULAR MEETING

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Don Ascoli-Chairman, Mickie Nye, Mary Lou Myers, Terry Otts, Bill Marshall
4. Review and Approval of Minutes of the Board of Adjustment Hearing on February 15, 2018.

5. **Director/Planner Communication:**

At any time during this meeting of the Board of Adjustment, the Director and/or Planner of Community Development may present a brief summary of current events. No action may be taken.

Appeal:

6. **AV-18-01 Howard Kaiser:** Application was approved by the Community Development Division and appealed by Terry Knight.
7. Adjournment

Information on the above case is available for review in the Gila County Community Development Department located at 745 N. Rose Mofford Way, Globe, Arizona during normal business hours or Gila County Community Development Office, 608 E. Hwy 260, Payson, AZ.

Pursuant to Arizona Revised Statutes, Section 38-431, the Board of Adjustment and Appeals reserves the right to adjourn into Executive Session for Legal Advice, concerning any of the above matters. The Board reserves the right to consider any matter out of order.



**MINUTES OF THE GILA COUNTY
BOARD OF ADJUSTMENT
Thursday, February 15, 2018
GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM
610 E. Highway 260, Payson, AZ
9:00 A.M.**

REGULAR MEETING

1. The meeting was called to order at 9:02 A.M. by Chairman Don Ascoli.
2. Pledge of Allegiance was led by Chairman Don Ascoli.
3. Roll Call: Therese Berumen did the roll call; Chairman Don Ascoli (in Payson), Terry Otts (in Globe), Bill Marshall (in Globe), Mickie Nye (in Globe), and Mary Lou Myers (in Payson) are all present. No members were absent. A quorum is present.

Community Development Staff Members Present: Scott Buzan-Director, Robert Gould-Planner, Therese Berumen-Administrative Assistant, Debby Bradway-Senior Building Safety Assistant and Debbie Fickel-Building & Zoning Inspector.

Gila County Attorney's Office Present: Charles Shire.

4. Review and Approval of the Board of Adjustment Minutes on January 18, 2018. Chairman Don Ascoli asked if there were any changes needed to the minutes. No changes were suggested. Mary Lou Myers motioned that the minutes be approved as is and Mickie Nye seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Board of Adjustment, Director Scott Buzan and/or Planner Robert Gould of Community Development may present a brief summary of current events. No action may be taken.

Neither Scott Buzan nor Robert Gould had any items they wanted to discuss.

Appeal:

6. **AV-17-13 Walter Rudnick:** An application was approved by the Community Development Division and appealed by Alejandro and Linda Martinez, due to safety reasons.

Robert Gould presented the staff report overview. Mr. Rudnick constructed a 12-foot by 12-foot carport without attaining any permits and built it about 25 inches from his property line. After it was red-tagged, Mr. Rudnick came into the Payson office and filled out an Administrative Variance application, requesting a 3.5-foot property line setback for the carport. I did approve the application because I didn't see any real big issues with it. The neighbor who shares that property line has some safety concerns with it. We received Mr. and Mrs. Martinez's appeal letter a day or two after the appeal period ended. Since the letter was received after the appeal period ended, the Board has an option to just deny the appeal on that basis alone. It was

accepted in our office using the postmarked date of the letter. Mr. Rudnick fully intends on moving his carport back to meet the 3.5-foot property line setback. Scott Buzan reinstated that the Community Development Division used the postmarked date of the letter and it was within the timeframe of the appeal period. Chairman Don Ascoli asked what the measurement was right now from the property line to the structure. Robert Gould stated that it was measured at 25-25.5 inches right now. He also stated that a portion of the stone wall is on both properties, with the larger portion being on the Martinez's property. Debby Bradway clarified that the building department requires permits on anything over 200 square feet. Anything under 200 square feet doesn't require a building permit, but does require what we call a \$25 counter fee for a site plan review. This was added into our ordinance a few years back. It is the staff's job to verify all setbacks, including wastewater. Once Mr. and Mrs. Rudnick realized they needed a permit, they came into the office. Once the variance application is complete, they will come back into the office and pay the \$25 counter fee for their site plan review. Mrs. Rudnick wanted clarification on where the setback is measured from. From eave to eave or from the pole of the carport because she has been told two different things. Scott Buzan stated it would not be the eave, that it would be from the wall or pole of the carport. Debby Bradway clarified that the eave of the carport has to be at least 2 feet from the property line. Chairman Don Ascoli stated that though it may be just a technical issue, the issue of the postmarked date needed to be addressed. Scott Buzan stated that it was agreed to use the postmarked date. Charles Shire stated, from a legal view, it should always be specified how it should be delivered. Chairman Don Ascoli, along with the other Board members agreed that it would be allowed because it was postmarked before the appeal period ended. Robert Gould clarified that the Board is only to approve or deny the appeal that Mr. and Mrs. Martinez submitted and not whether Mr. Rudnick can have a 3.5-foot property line setback because the 3.5-foot property line setback has already been approved.

The meeting was opened to public comment. Mrs. Rudnick wanted to clarify that because they had an old version of the building handbook, that because it was an exempt structure, that they didn't think they needed to get it permitted. Later they did find out that they needed to come into the office and they took care of what they needed to. They also understand Mr. and Mrs. Martinez's concerns about the wall because it wasn't properly constructed, but we don't believe that is our problem as far as the variance goes. We don't believe that should be the reason why we don't get the variance. Mrs. Martinez stated that her and her husband never had any issue with the structure itself, but were told by their lawyer that having a paper trail would be beneficial to them. Their concern is if part of the wall would happen to fall again, they didn't want to be liable if it damaged their property. Chairman Don Ascoli stated that from the pictures that were included in the agenda packet that the majority of the wall lies on the Martinez's property. Mr. Rudnick stated that he didn't construct the wall and shouldn't be liable for it. Chairman Don Ascoli stated that there has been a lot of conversation over the wall, but wanted to convey that the Board is only making a decision either to approve or deny the appeal of the 3.5-foot property line setback. No other public comments. The public comment portion of the meeting was closed. Mary Lou Myers stated that she believes that Mr. and Mrs. Rudnick have performed to the statues and to the county's regulations.

Mickie Nye motioned to deny the appeal. The motion was seconded by Mary Lou Myers. The motion was unanimously approved.

7. Adjournment. Bill Marshall made a motion to adjourn the meeting and Terry Otts seconded the motion. The motion to adjourn was unanimously approved at 9:43 A.M.

Staff Report

The staff report will be presented orally by Robert Gould.

Gila County Community Development Division
Planning & Zoning Department
745 N Rose Mofford Way, Globe, AZ 85501
(928) 402-8512

FAX: (928) 425-0829

or

608 E Highway 260, Payson, AZ 85541
(928) 474-9276

FAX: 928-474-0802

ADMINISTRATIVE VARIANCE APPLICATION

Date: 12/6/17

Case File No.: AU-18-01

Applicant Name: Howard Kaiser Phone No.: 602-459-6795
Mailing Address: 5742 W Shannon St, Chandler AZ 85226
Signature: Howard Kaiser

Owner's Name: Howard Kaiser Phone No.: _____
Mailing Address: Same as above
Signature: _____

(If the applicant is not the owner of the subject property, the owner must sign the application authorizing the applicant to apply.)

Property Address: 3712 N Navajo Drive Pine AZ 85544
Property Parcel No.: 301-18-222 Legal Description: Cool Pines # 219
Zoning of Property: AU-012

Applicant's Description of Administrative Variance Request: Allow 5' rear and 5' North side setbacks in lieu of req'd 9' rear and 9' N side setbacks.

Applicant's Justification for an Administrative Variance: Places garage up-slope and away from mature pine trees. Also aligns garage door with existing driveway.

Attach a reproducible 8 1/2" x 11" site plan showing: scale; north arrow; all lot dimensions; adjacent streets and names; all existing and proposed buildings and structures, driveways, alleys, easements, water and utility services, septic tanks and leach fields, fences, and drainage ditches; significant trees and vegetation; and, extreme topographical conditions. Show all dimensions of existing and proposed buildings and structures, and distances between buildings. Label property lines (i.e. front, rear, side) and show the dimensions of the setbacks. Show the proposed feature which is the subject of the variance request.

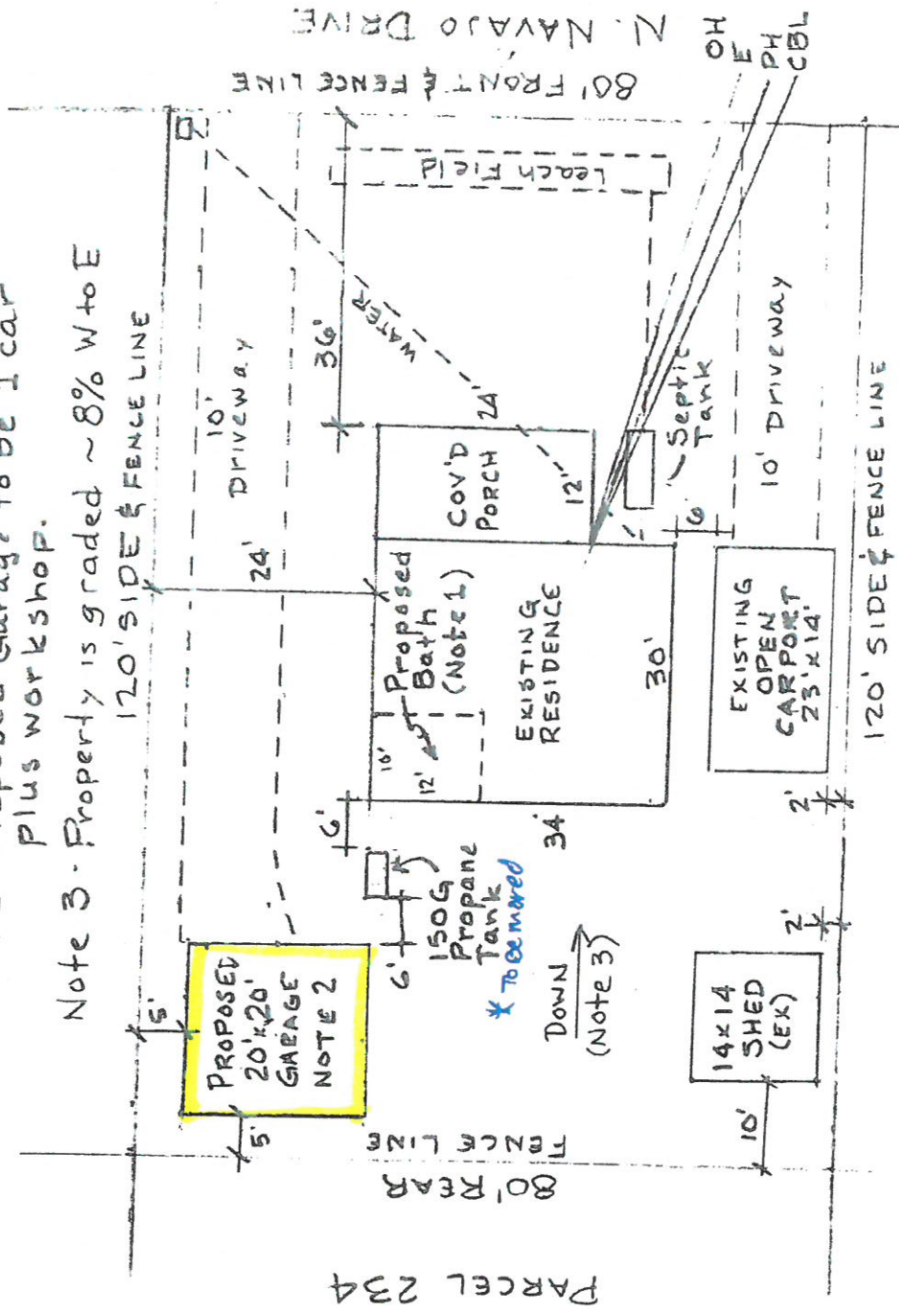
FOR OFFICE USE ONLY

\$75 Fee Paid _____ Check No.: _____ Cash: _____ Date: _____
Inspector's Report and Pictures Done: _____
Approved: X 2/13/18 Denied: _____
Director's Signature: _____
Date: _____

Date notices mailed to Applicant & Adjacent Property Owners: _____

Appeal Due Date: 3/7/18 Appealed: 2/20/18

- Note 1 - Proposed Bath to be constructed in an open, unfinished, covered corner of existing residence.
- Note 2 - Proposed Garage to be 1 car plus workshop.
- Note 3 - Property is graded ~8% W to E



PARCEL 221

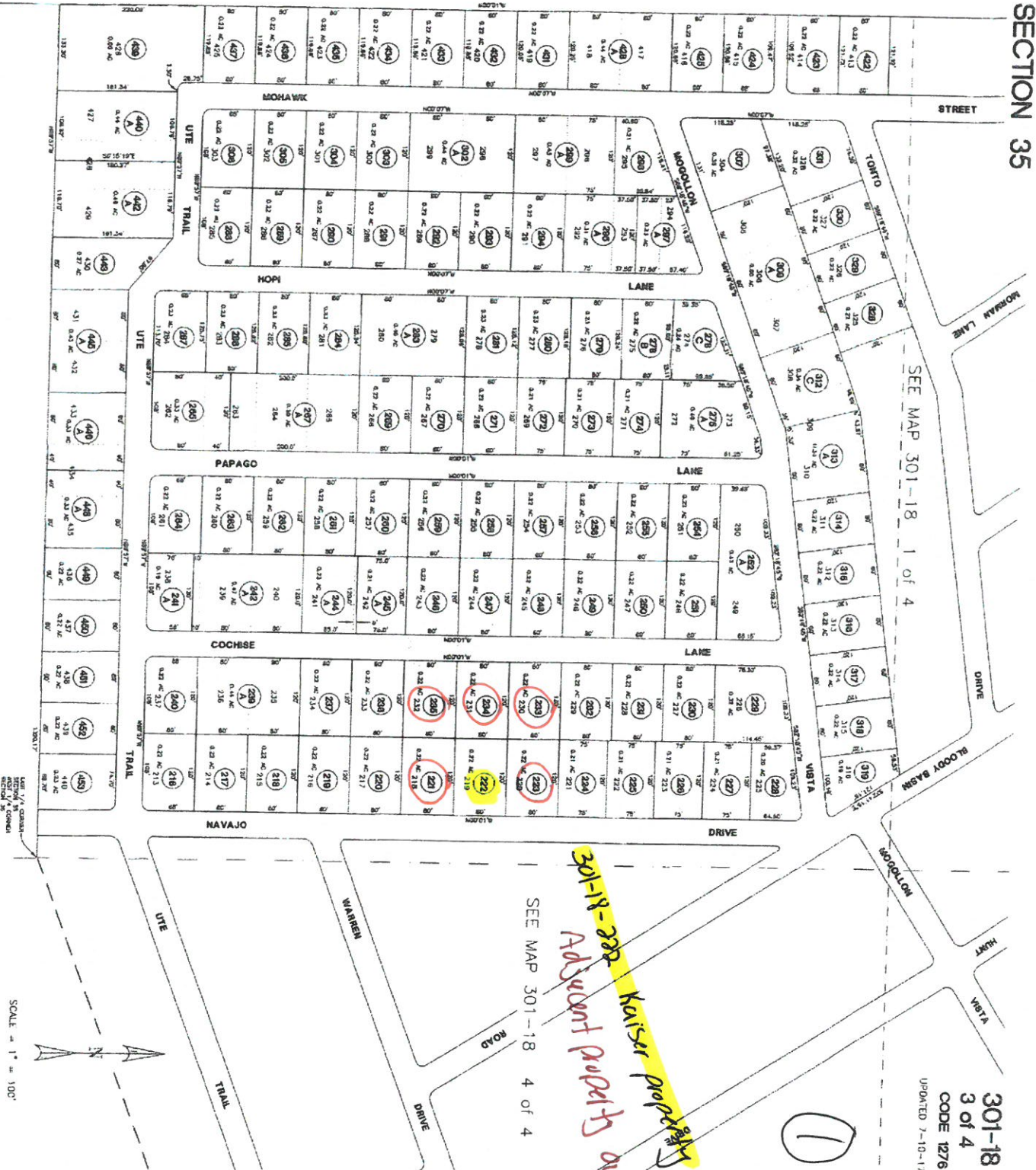
Scale 1"=20'

SITE PLAN
 PARCEL 301-18-222
 3712 N. Navajo Dr.
 Pine, AZ 85533
 Howard & Amory Kaiser

PT SE 1/4 NE 1/4 SECTION 35
T12N R8E

COOL PINES
Gila County Recorded
Plot 207

TONTO NATIONAL FOREST
SEE MAP 301-02 1 of 6



301-18
3 of 4
CODE 1276
UPDATED 7-10-17

SEE MAP 301-63 2 of 2

GILA COUNTY ASSESSOR



PT SW 1/4 NW 1/4 SECTION 36
T12N R8E

SEE MAP 301-18 2 of 4

301-18
4 of 4
CODE 1276
UPDATED 8-19-13

2

COOL PINES
Gila County Recorded
Plat 207

SEE MAP 301-24 1 of 2

301-18-202 Kasper property
Adjacent property owner

SEE MAP 301-18 3 of 4

SEE MAP 301-63 2 of 2

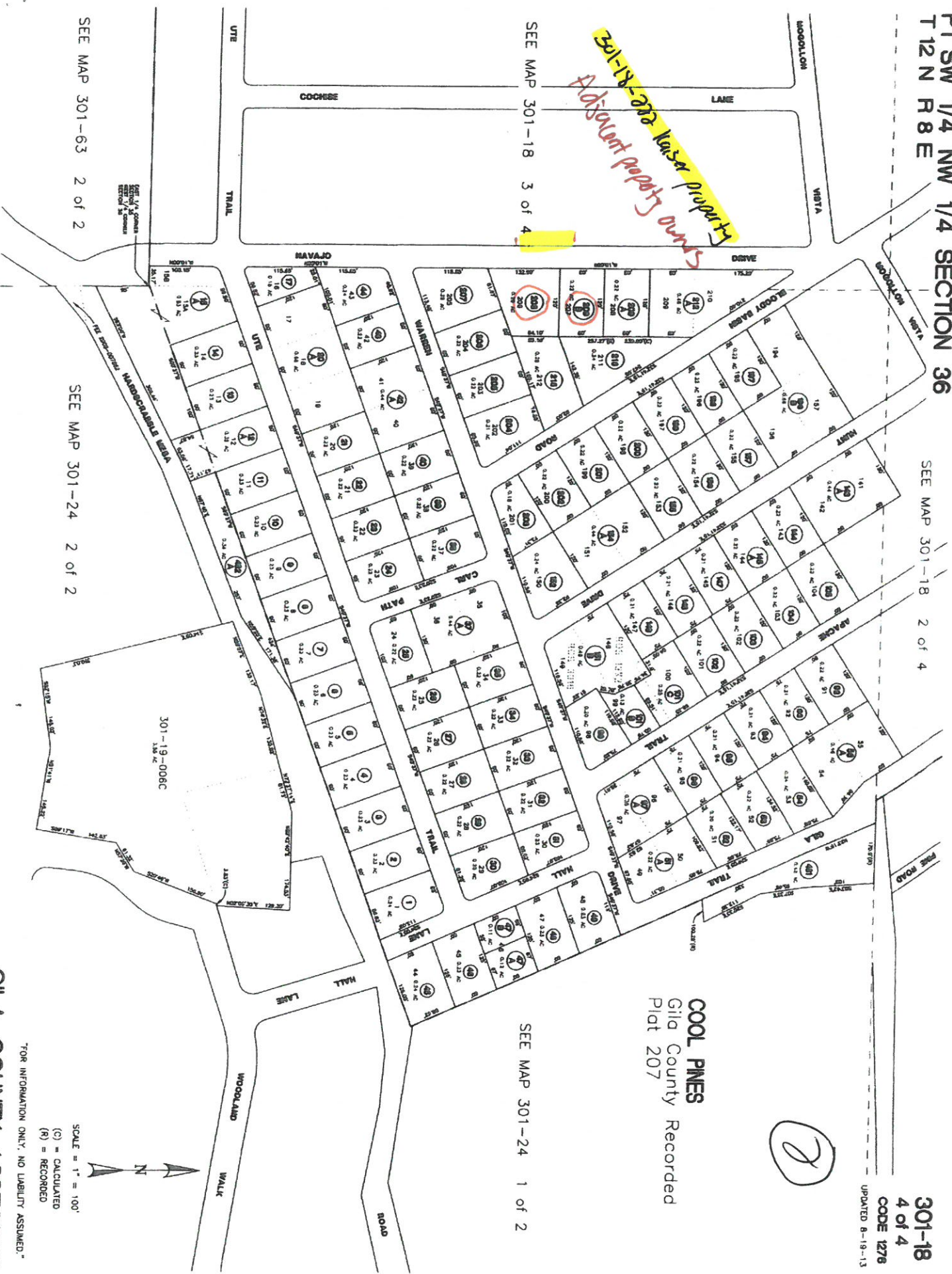
SEE MAP 301-24 2 of 2

SCALE = 1" = 100'

(C) = CALCULATED
(R) = RECORDED

"FOR INFORMATION ONLY. NO LIABILITY ASSUMED."

GILA COUNTY ASSESSOR



Cool Pines Knights, LLC
4519 W. Corona Ct.
Chandler, AZ 85226

John & Renee Fontes
7994 W. San Miguel Ave.
Glendale, AZ 85303

Francis & Betty Doria Trustees
Doria Living Trust
1718 E. Del Rio
Tempe, AZ 85282

Emma Fuentes-Mendez
Jose Vega
23238 N. 26th St.
Phoenix, AZ 85024

Duane & Leigh Heise Trustees
D & L Heise Revocable Living Trust
17214 E. Baca Dr.
Fountain Hills, AZ 85268

Brian & Robin Benner
26208 N. 50th Dr.
Phoenix, AZ 85083

Adam & Kimberly Schaeffer
31250 N. 130th Lane
Peoria, AZ 85383

Howard Kaiser
5742 W. Shannon St.
Chandler, AZ 85226

745 N. Rose Mofford Way
Globe, Arizona 85501
(928) 402-4224
FAX (928) 425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

February 13, 2018

Mr. Howard Kaiser
5742 W. Shannon Street
Chandler, AZ 85226

Re: Administrative Variance (AV-18-01)
Request for a 5' rear and side property line setback, to construct a 20'X20' garage
3712 N. Navajo Dr., Pine, AZ 85544
APN# 301-18-222, Zoning R1L-D12

Dear Mr. Kaiser,

Your application for an Administrative Variance to allow a 5' rear and side property line setback has been approved due to conditions of extreme topography and unnecessary destruction of vegetation. These two factors meet the requirements of Section 101.3 (A)(1) of the Gila County Zoning Ordinance which allows for an Administrative Variance to be approved when compliance with the minimum building setback regulations creates a hardship and there is minimal impact to adjoining property uses. The reason for my decision is to save some mature pine trees and to build without incurring too much of a slope. Your property slopes from the West to the East fairly significantly. The purpose of requiring the Administrative Variance is to ensure that the structure does not constitute any kind of nuisance.

This letter of approval will be sent to adjoining property owners to allow them an opportunity to appeal this decision. Appeals of this decision must be filed in writing with the Community Development Division within fifteen (15) working days following the date of mailing of this notice of decision. This appeal period will end on March 7, 2018.

Should you have any questions or concerns, please feel free to contact the Community Development Globe office at 928-402-4224.

Sincerely,

Robert Gould
Planner

Berumen, Therese C

From: Gould, Robert
Sent: Thursday, March 01, 2018 8:35 AM
To: Berumen, Therese C
Subject: FW: Administrative Variance (AV-18-01)

Therese I believe we need to treat this email as an appeal. I should not be the one to determine if she is withdrawing because of my response. She needs to withdraw.

Bob Gould

From: terry knight [mailto:terryknight777@gmail.com]
Sent: Wednesday, February 28, 2018 3:21 PM
To: Gould, Robert
Subject: Re: Administrative Variance (AV-18-01)

Hello,

Please confirm that you have received the previous email.

Thank you.

Terry

On Mon, Feb 26, 2018 at 8:33 AM, terry knight <terryknight777@gmail.com> wrote:
Hello

I have some question about the below request. I own the ptoperty 222 which the building will be next to.

Administrative Variance (AV-18-01)
3712N.Navajo Dr. Pine AZ 85544
APN#301-18-222 Zoning R1L-D12

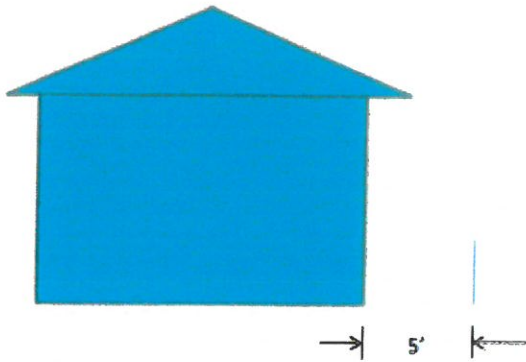
By allowing this variance do I forfeit any right on my current property in the future?

- Placement of any future building on my property?
- Distance between buildings (for fire code)?
- Other

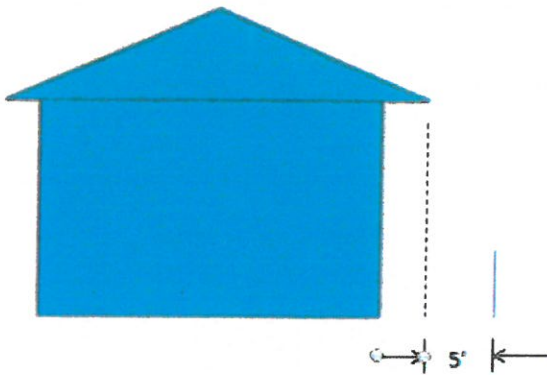
By allowing this does this have any negative impact to the property on any future possible plans or usages of the property?

What does the 5" set back actually mean/

- The wall will be 5 foot from the property line



- The overhang will be 5 foot from the property line?



Do they have a plan for drainage because my property is lower than where the building is proposed?

If there is a negative impact to future uses of my property consider this a formal appeal until I receive clarification on the above.

Regards,

Cell Phone [602 321-3114](tel:602-321-3114)

Terry Knight

Berumen, Therese C

From: terry knight <terryknight777@gmail.com>
Sent: Wednesday, March 21, 2018 11:07 AM
To: Berumen, Therese C
Subject: Re: FW: Administrative Variance (AV-18-01)
Attachments: pine variance (A).docx

CAUTION: Since this email originated from outside of Gila County, please be careful when deciding to click links or open attachments.

Hello Therese,

I did have a conversation with Mr. Kaiser. The issue is not with the structure itself, which I have seen no drawings on. It is with moving it further back and closer to my property, will that impact my property. I have a concern about the possible increase, consolidation or diversion of water to my property and I need to understand the possible impact if not handled properly.

He stated he would put a gutter on the roof as part of the building plans to the city. I do not know if that is all that is required to ensure the current water shed?

Terry

On Tue, Mar 20, 2018 at 10:16 AM, Berumen, Therese C <tcberumen@gilacountyaz.gov> wrote:

Terry,

Robert Gould stated that he spoke to Mr. Kaiser and you two worked out an agreement, so you no longer want to appeal the decision to his administrative variance. If this is the case, please respond to this email with such.

Thank You,

Therese Berumen

Administrative Assistant

Gila County Community Development

[745 N. Rose Mofford Way](#)

[Globe, AZ 85501](#)

[\(928\) 402-8512](#)

From: terry knight [<mailto:terryknight777@gmail.com>]
Sent: Wednesday, February 28, 2018 3:21 PM
To: Gould, Robert
Subject: Re: Administrative Variance (AV-18-01)

Hello,

Please confirm that you have received the previous email.

Thank you.

Terry

On Mon, Feb 26, 2018 at 8:33 AM, terry knight <terryknight777@gmail.com> wrote:

Hello

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Administrative Variance (AV-18-01)

[3712N.Navajo Dr. Pine AZ 85544](#)

APN#301-18-222 Zoning R1L-D12

By allowing this variance do I forfeit any right on my current property in the future?

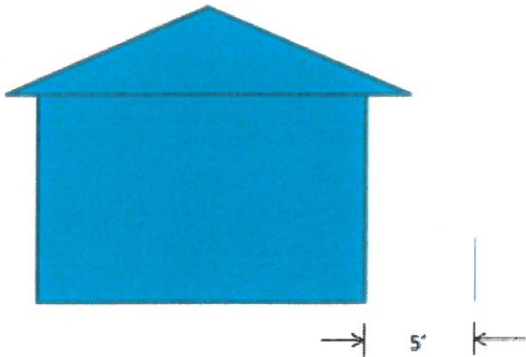
- Placement of any future building on my property?
- Distance between buildings (for fire code)?

- Other

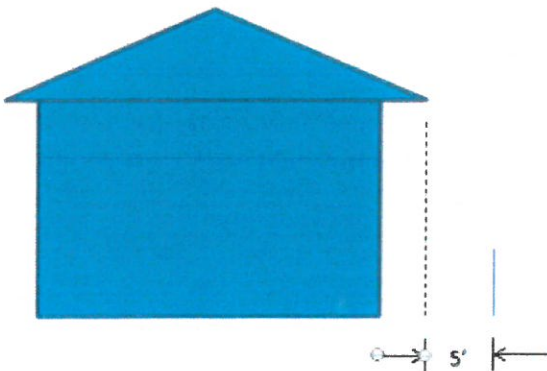
By allowing this does this have any negative impact to the property on any future possible plans or usages of the property?

What does the 5' set back actually mean/

- The wall will be 5 foot from the property line



- The overhang will be 5 foot from the property line?



Do they have a plan for drainage because my property is lower than where the building is proposed?

If there is a negative impact to future uses of my property consider this a formal appeal until I receive clarification on the above.

Regards,

15

Cell Phone [602 321-3114](tel:602-321-3114)

Terry Knight

Berumen, Therese C

From: Gould, Robert
Sent: Thursday, March 22, 2018 9:07 AM
To: terryknight777@gmail.com
Subject: Appeal of Administrative Variance

I am having the Board of Adjustments listen to your arguments due to fact that I don't have a request to withdraw. This will be the only agenda item and will be heard on April 19th. You need to be there in order to present your argument for this variance.

Bob Gould

Gould, Robert

From: terry knight <terryknight777@gmail.com>
Sent: Tuesday, March 27, 2018 8:24 PM
To: Gould, Robert; terry knight
Subject: Re: Appeal of Administrative Variance

CAUTION: Since this email originated from outside of Gila County, please be careful when deciding to click links or open attachments.

Hello Robert,

In a previous email you offered, "If you need any assistance with your presentation let me know".

Can you please provide any and all documentation, prints, drawing and reports that were created and reviewed in your approval process. Can i have them by April 4th to have time to review them.

Specific information on the following from the Gila County Grading and Drainage Ordinance:

600.1 A Grading and Drainage Permit shall be required for any development or substantial improvement, if such development or substantial improvement will divert, retard, obstruct, or otherwise affect existing drainage.

Improvements - Improvements to, or other uses of property shall not interfere with or obstruct Drainage the established drainage pattern over the lot from or to adjacent lots, and any modification of drainage on the lot, such as paving, piping or channelization shall not increase the runoff in such a manner as to cause flooding or flood related damage to adjacent lots or public facilities.

"Drainage" means runoff, which flows overland as a result of precipitation. This shall include sheet flow and flows which may concentrate in local drainage systems with or without defined channels.

Improvements, that could increase the impervious cover of the parcel, impede the natural flow onto the parcel, change the location of flow from the parcel or concentrate flow leaving the parcel.

It is my understanding that if the above conditions are not meet that a variance would not comply and therefore not be granted.

All that I am requesting is that as part of the process to grant the variance there was consideration to the above. That a government agency deemed that acceptance of this variance and the proposed structure will not have a negative impact on you property. and meet the appropriate codes.

Regards,

Terry

On Thu, Mar 22, 2018 at 9:06 AM, Gould, Robert <rgould@gilacountyaz.gov> wrote:

I am having the Board of Adjustments listen to your arguments due to fact that I don't have a request to withdraw. This will be the only agenda item and will be heard on April 19th. You need to be there in order to present your argument for this variance.

745 N. Rose Mofford Way
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(928) 474-9276
FAX (928) 474-0802

GILA COUNTY COMMUNITY DEVELOPMENT

March 27, 2018

Howard Kaiser
5742 W. Shannon Street
Chandler, AZ 85226

Re: Administrative Variance (AV-18-01) Appeal
APN# 301-18-222, Zoning R1L-D12

Dear Mr. Kaiser,

We have received an appeal to the Administrative Variance application you submitted to consider a 5-foot rear and side property line setback to construct a 20'X20' garage located at 3712 N. Navajo Drive, Pine, AZ. This Administrative Variance application is scheduled to be heard by the Board of Adjustment on April 19, 2018 at 9:00 A.M., in the Gila County Board of Supervisors Conference Room located at 610 E. Hwy 260, Payson AZ and simultaneously telecasted to the ~~Gila County Board of Supervisors Hearing Room located at 1400 East Ash Street, Globe AZ.~~ It is recommended that you be present at this hearing to answer any questions the Board may have.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (928) 402-8514 or by email at rgould@gilacountyaz.gov.

Sincerely,

Robert Gould
Planner

→ Gila County Community Development
Conference Room
located at: 745 N. Rose Mofford Way
Globe, AZ

TB 4/13/18

19

745 N. Rose Mofford Way
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Payson, Arizona 85541
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GILA COUNTY COMMUNITY DEVELOPMENT

March 27, 2018

Terry Knight
4519 W. Corona Ct.
Chandler, AZ 85226

Re: Howard Kaiser Administrative Variance (AV-18-01) Appeal
APN# 301-18-222, Zoning R1L-D12

Dear Mr. Knight,

We have received your appeal to the Administrative Variance application for Howard Kaiser to consider a 5-foot rear and side property line setback to construct a 20'X20' garage located at 3712 N. Navajo Drive, Pine, AZ. This Administrative Variance application is scheduled to be heard by the Board of Adjustment on April 19, 2018 at 9:00 A.M., in the Gila County Board of Supervisors Conference Room located at 610 E. Hwy 260, Payson AZ and simultaneously telecasted to the ~~Gila County Board of Supervisors Hearing Room located at 1400 East Ash Street, Globe AZ.~~ It is recommended that you be present at this hearing to answer any questions the Board may have.

Should you have any questions or concerns regarding this matter, please feel free to contact me at (928) 402-8514 or by email at rgould@gilacountyaz.gov.

Sincerely,

Robert Gould
Planner

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